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Part IV

Department of Transportation

Coast Guard
Research and Special Programs
Administration

46 CFR Part 146
Transportation of Military Explosives by
Vessel; Revocation of CFR Part; Notice
of Proposed Rulemaking

HM-204A

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 146

Research and Special Programs Administration

[Docket No. HM-204A; Notice No. 90-7]

RIN 2137-AA10

Transportation of Military Explosives by Vessel; Revocation of CFR Part

AGENCY: United States Coast Guard (USCG) and Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The USCG and RSPA propose to revoke 46 CFR part 146 which contains requirements for the transportation and stowage of military explosives on board vessels. This action is being done concurrently with a separate notice of proposed rulemaking under RSPA Docket HM-204, Notice 90-6, which appears elsewhere in today's Federal Register. This revocation would eliminate outdated requirements and requirements which overlap or conflict with the proposals in Docket HM-204.

DATES: Comments must be received on or before July 16, 1990.

ADDRESSES: Written comments should be submitted to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket number and should be submitted, if possible, in five copies. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the docket number (i.e., Docket HM-204A). The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001. The public docket may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Carl V. Strombom, Standards Division, Office of Hazardous Materials Transportation, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, telephone (202) 366-4488, or Mr. Frank K. Thompson, Office of Marine Safety, Security, and Environmental Protection, (G-MTH-1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1577.

SUPPLEMENTARY INFORMATION:

I. Background Information

In a separate document in this issue of the Federal Register, RSPA has published a notice of proposed rulemaking (NPRM) concerning the carriage of hazardous materials by vessel (Docket No. HM-204, Notice No. 90-6). Docket HM-204 proposes to revise requirements currently found in 46 CFR part 146 concerning the transportation of military explosives by vessel, and to relocate them in 49 CFR part 176. Docket HM-204 also proposes editorial changes to 49 CFR part 176 to align the hazard class nomenclature and units of measure with proposals made under Docket HM-181, Notice 87-4 (52 FR 16482, November 11, 1987). Docket HM-181, Notice 87-4 proposed to revise provisions in the Hazardous Materials Regulations (HMR) pertaining to hazard classification, hazard communication, and packaging to, among other purposes, harmonize requirements of the HMR with international standards based on the United Nations Committee of Experts Recommendations on the Transport of Dangerous Goods (U.N. Recommendations).

At present, two separate sets of Federal regulations govern the transportation of explosives by vessel in U.S. waters. The regulations applying to the transportation of "military" explosives are in 46 CFR part 146, while the regulations for all other types of explosives are in 49 CFR subchapter C. The only significant distinction between "military" and other explosives is in their end-use, the existence of two essentially overlapping sets of regulations is of historical, rather than technical or legal, origin.

The responsibility for regulating the shipment of hazardous materials by all modes of transportation has been delegated to the Administrator of RSPA, except for the authority governing the shipment of bulk hazardous materials by water, which is delegated to the Commandant, U.S. Coast Guard. Military explosives are not shipped as bulk commodities in the same sense of the term "bulk" elsewhere in the title 46 regulations. The term "explosives in bulk" defined in 46 CFR 146.29-11(a)(2) applies only to certain classes of military explosives in any package or container, except "made-up" ammunition devices such as bombs, grenades, and cartridges. With the proposed transfer of the military explosives regulations to title 49, this definition would no longer have any significance and would be removed.

In 1974, hazardous material regulations applying to packaged

materials transported by vessel, including those regulations applicable to explosives other than military explosives, were revised and relocated (from 46 CFR to 49 CFR, chapter 1, subchapter C (i.e., the HMR). The regulations governing military explosives which remain in 46 overlap and, in some areas, conflict with the explosives regulations in the HMR. The existence of two sets of regulations, either of which could apply to the shipment of military explosives, causes shippers to be confused about which rules they must follow.

RSPA, with the cooperation and assistance of the Hazardous Materials Branch of the Marine Technical and Hazardous Materials Division, USCG, is now proposing to consolidate requirements for military explosives with those applicable to other explosives. The proposed consolidation would make the present military explosives regulations in 46 CFR part 146 unnecessary.

The present USCG stowage classification system set forth in 46 CFR 146.29-100 would not be carried over into the proposed revision of 49 CFR part 176. Under these proposed rules, all explosives and other hazardous materials would be classified according to the classification system proposed in Docket HM-181A, Notice 90-5 (55 FR 18438), which is based on the U.N. Recommendations. When transported by vessel, explosives would be stowed and segregated according to their "hazard class and division" (i.e., Class 1, Division 1.1, 1.2, etc.) and "compatibility group" (i.e., A, B, C, D, etc.). The U.N. system is in nearly universal use outside the United States and has been adopted by the U.S. Department of Defense for the storage of explosives at ammunition depots and for other non-transportation applications.

Docket HM-181A, Notice 90-5 proposed significant changes to the explosive classification system currently in use in the HMR. Because of the proposals in Docket HM-181A, Notice 90-5 and Docket 204, Notice 90-6, the current USCG classification system in 46 CFR part 146 is no longer necessary and would be revoked.

The following table lists each section of present 46 CFR part 146 and the provision(s) of 49 CFR chapter I, subchapter C by which it would be replaced. In the table, "new" preceding a 49 CFR entry indicates that provision does not appear in the HMR at present, "revised" means that a provision in the present HMR would be modified in consequence of the adoption of the new provisions, and "existing" indicates the 46 CFR section would be replaced by a

current section of the HMR that has not been modified by proposals in Docket HM-204 or Docket HM-181A. Certain requirements of part 146 are no longer necessary; these are indicated in the table by "not replaced". Section numbers followed by HM-181A in parentheses indicate that the new section does not appear in the present HMR but is being proposed by Docket HM-181A. As indicated, one provision of Part 46 would be replaced by an existing provision of 33 CFR.

46 CFR	49 CFR
Subpart 146 01	
146 01-1	Existing 176 1
146 01-3	Not replaced
Subpart 146 02	
146 02-1	Existing 176 1
146 02-2	Existing 176 5
146 02-5	Existing 176 13
146 02-6	Existing 176 15
146 02-6a	Existing 176 18
146 02-12	Existing 176 39
146 02-14	Existing 176 50
146 02-15	Existing 176 45
146 02-16	Existing 176 52
146 02-20	Revised 176 54
146 02-22	Existing 176 36
146 02-25	Existing 176 31, Existing 176 65
146 02-35	Existing 176 48
Subpart 146 05	
146 05-1	Existing 171 2
146 05-3	Existing 173 21
146 05-11	Existing 176 27
146 05-12	Existing 176 24
146 05-15	Existing 171 2
Subpart 146 09	
146 09-7	Not replaced
146 09-8	Not replaced
146 09-11	New 176 104
146 09-15	Revised 176 78
146 09-16	Existing 176 79
Subpart 146 20	
146 20-1	New 173 50 (HM-181A)
146 20-3	New 173 54 (HM-181A), formerly existing 173 51
146 20-5	New 173 50 and new 173 52 (HM-181A)
146 20-7	New 173 50 and new 173 52 (HM-181A)
146 20-9	New 173 50 and new 173 52 (HM-181A)
146 20-11	New 173 50 and new 173 52 (HM-181A)
146 20-13	New 173 56 (HM-181A), formerly existing 173 86
146 20-53	New 176 194, formerly existing 173 177
Subpart 146 29	
146 29-1	Not replaced
146 29-3	Not replaced
146 29-7	Revised 176 4, new 176 162
146 29-9	Existing 176 12, revised 176 11
146 29-11	New 173 59 (HM-181A), new 176 2, new 176 172
146 29-13	Revised 176 100
146 29-14	Existing 176 30
146 29-15	33 CFR 126 16
146 29-17	Revised 176 3, new 176 166
146 29-19	New 176 102

46 CFR	49 CFR
146 29-21	New 176 162
146 29-23	New 176 108, new 176 118
146 29-25	New 176 150, new 176 154, new 176 164, new 176 176, new 176 178
146 29-27	New 176 164
146 29-29	Existing 176 60, new 176 182(g)
146 29-31	New 176 182(f)
146 29-33	New 176 104, new 176 192
146 29-35	New 176 148
146 29-37	Not replaced
146 29-39	New 176 104
146 29-41	Not replaced
146 29-42	Revised 176 76, new 176 170, new 176 172
146 29-43	Not replaced
146 29-45	New 176 104
146 29-47	Existing 172 301, new 173 60 (HM-181A)
146 29-49	Existing 176 95 through 176 99, new 176 104
146 29-51	Revised 176 83, new 176 112
146 29-53	New 176 140, new 176 194
146 29-55	New 176 148
146 29-57	New 176 138
146 29-59	Revised 176 83, new 176 140, new 176 142
146 29-61	New 176 146
146 29-63	Revised 176 69, revised 176 84(c), new 176 124
146 29-65	New 176 156
146 29-67	New 176 156
146 29-69	New 176 128, new 176 130, new 176 132, new 176 133
146 29-71	New 176 116, new 176 122
146 29-73	New 176 122, new 176 128
146 29-75	New 176 112, new 176 128
146 29-77	New 176 128
146 29-79	New 176 128, new 176 130
146 29-81	New 176 124, new 176 128
146 29-83	New 176 128, new 176 136
146 29-85	New 176 128, new 176 136
146 29-87	New 176 128, new 176 136
146 29-89	New 176 128, new 176 136, new 176 137, new 176 138
146 29-90	New 176 170
146 29-91	Revised 176 84(c)
146 29-93	Revised 176 84(c), new 176 144
146 29-95	New 176 116
146 29-97	Revised 176 53, new 173 59 (HM-181A), new 176 116
146 29-99	New 176 144
146 29-100	New 173 51, revised 176 83

II Administrative Notices

A. Paperwork Reduction Act

This proposed rulemaking contains no information collection requirements

B. Regulatory Flexibility Act

RSPA is aware that the amendments proposed in this NPRM may produce an economic impact on industry segments, a number of which may be small enterprises. These enterprises may include hazardous materials shippers, carriers, terminal operators, vessel operators, and other transportation organizations that have small numbers of employees and limited gross revenues. Based on limited information concerning the size and nature of

entities likely to be affected by this proposed rule, I certify that the regulations proposed within would not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act

C. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This proposal has no substantial direct impact on the States, on the Federal-State relationship, or on the distribution of power and responsibilities among levels of government. Therefore, this proposed rulemaking contains no policies with Federalism implications as defined in Executive Order 12612

D. Executive Order 12291

RSPA has determined that this rulemaking: (1) Is not "major" under Executive Order 12291, (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034), (3) will not affect not-for-profit enterprises or small governmental jurisdictions, and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 *et seq.*). Since the only purpose of this proposed rulemaking is to inform interested readers of the revocation of regulations in 46 CFR part 146 and their transfer to 49 CFR part 176, RSPA has determined that a regulatory evaluation is not necessary because the anticipated impact of the proposals in this notice would be minimal.

List of Subjects

46 CFR Part 146

Arms and munitions, Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Vessels

In consideration of the foregoing, the U.S. Coast Guard and the Research and Special Programs Administration propose to revoke part 146 of Title 46, Code of Federal Regulations

Issued in Washington, DC on May 4, 1990, under authority delegated in 49 CFR part 106, appendix A

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation

[FR Doc 90-10973 Filed 5-18-90, 8 45 am]

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US Department
of Transportation

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